Reply to May 17, 2006 Office Action

Page 8

REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present

application.

Art Unit 1746

Claims 1, 3-11, 14 and 16-18 are now present in this application. Claims 1 and 14 are

independent. In this Amendment, claims 13 and 20 have been canceled, and claims 1, 4, 6, 8, 10,

14, 17 and 18 have been amended.

Application No.: 10/722,449

Reconsideration of this application, as amended, is respectfully requested.

Reasons for Entry of Amendments

Applicant respectfully requests that the present Amendment be entered in view of the fact

that the amendments to the claims place the application into condition for allowance. The

amendments were not presented at an earlier date in view of the fact that Applicant is responding to

new grounds of rejection based on a newly cited prior art reference to Skowronski. Applicant

submits that the amendments herein do not raise any new issues that would require further

consideration or search, as the amendments to independent claims 1 and 14 made herein merely

recite subject matter of now-canceled claim 13, which was previously searched and considered.

In the alternative, if the Examiner does not agree that the present Amendment places the

present application into condition for allowance, Applicant respectfully requests that the present

Amendment be entered for the purposes of Appeal, as the amendments reduce the number of

independent claims under consideration from 10 to 2, thereby greatly reducing the issues for

Appeal.

Reply to May 17, 2006 Office Action

Page 9

Rejection Under 35 U.S.C. §102

Application No.: 10/722,449

Art Unit 1746

Claims 6, 7, 10-11 and 18 stand rejected under 35 U.S.C. §102(b) as being anticipated by

U.S. Patent 3,133,168 to Jacobson. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is

not being repeated here.

At the outset, Applicant respectfully submits that by this Amendment, claims 6, 7, 10 and

11 now depend, either directly or indirectly, from independent claim 1, which was not rejected as

anticipated by Jacobson. Accordingly, dependent claims 6, 7, 10 and 11 are similarly not

anticipated by Jacobson.

In addition, Applicant respectfully submits that by this Amendment, claim 18 now depends,

indirectly, from independent claim 14, which was not rejected as anticipated by Jacobson.

Accordingly, dependent claim 18 is similarly not anticipated by Jacobson.

Reconsideration and withdrawal of this rejection of claims 6, 7, 10, 11 and 18 under 35

U.S.C. §102(b) as being anticipated by U.S. Patent 3,133,168 to Jacobson are respectfully

requested.

Rejections under 35 U.S.C. §103

Claims 4, 5, 8, 9 and 17

Claims 4, 5, 8, 9 and 17 stand rejected under 35 USC §103(a) as unpatentable over

Jacobson. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is

not being repeated here.

At the outset, Applicant respectfully submits that by this Amendment, claims 4, 5, 8 and 9

now depend, either directly or indirectly, from independent claim 1, which was not rejected as

unpatentable over Jacobson. Accordingly, dependent claims 4, 5, 8 and 9 are similarly not

unpatentable over Jacobson.

In addition, Applicant respectfully submits that by this Amendment, claim 17 now depends

from independent claim 14, which was not rejected as unpatentable over Jacobson. Accordingly,

dependent claim 17 is similarly not unpatentable over Jacobson.

Reconsideration and withdrawal of this rejection of claims 4, 5, 8, 9 and 17 under 35

U.S.C. §103(a) as being unpatentable over Jacobson is respectfully requested.

Claims 13 and 20

Claims 13 and 20 stand rejected under 35 U.S.C. §103(a) as unpatentable over Jacobson

in view of U.S. Patent 6,539,753 to Ito et al. ("Ito"). This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is

not being repeated here.

At the outset, Applicant respectfully submits that claims 13 and 20 have been canceled,

thereby rendering this rejection moot.

Reconsideration and withdrawal of this rejection of claims 13 and 20 under 35 U.S.C.

\$103(a) as being unpatentable over Jacobson in view of Ito is respectfully requested.

Attorney Docket No. 0465-1095P Application No.: 10/722,449 Reply to May 17, 2006 Office Action

Page 11

Because the limitations of claim 13 have been incorporated into independent claims 1 and

14, the discussion of the combination of Jacobson and Ito will be discussed below with respect to

claims 1 and 14.

Art Unit 1746

Claims 1, 3, 14 and 16

Claims 1, 3, 14 and 16 stand rejected under 35 USC §103(a) as unpatentable over Jacobson

in view of U.S. patent 987,021 to Skowronski. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is

not being repeated here.

At the outset, Applicant respectfully submits that by this Amendment, independent claims 1

and 14 have been amended to include the limitations of now-canceled claim 13, which was not

rejected as unpatentable over Jacobson in view of Skowronski. Accordingly, independent claims 1

and 14 are similarly not unpatentable over Jacobson in view of Skowronski.

However, because claim 13 was rejected as unpatentable over Jacobson in view of Ito, and

independent claims 1 and 14 have been amended to include the limitations of now-canceled claim

13, claims 1 and 14 will be discussed in light of the rejection of claim 13.

Because the rejection is based on 35 U.S.C. §103, what is in issue in such a rejection is

"the invention as a whole," not just a few features of the claimed invention. Under 35 U.S.C.

§103, "[a] patent may not be obtained . . . if the differences between the subject matter sought to

be patented and the prior art are such that the subject matter as a whole would have been obvious

at the time the invention was made to a person having ordinary skill in the art to which said

Reply to May 17, 2006 Office Action

Page 12

Art Unit 1746

Application No.: 10/722,449

subject matter pertains." The determination under §103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. See, In re O'Farrell, 853 F.2d 894, 902, 7 USPQ2d 1673, 1680 (Fed. Cir. 1988). In determining obviousness, the invention must be considered as a whole and the claims must be considered in their entirety. See, Medtronic, Inc. v. Cardiac Pacemakers, Inc., 721 F.2d 1563, 1567, 220 USPO 97, 101 (Fed. Cir. 1983).

In rejecting claims under 35 U.S.C. § 103, it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of obviousness. See, In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. F-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested

Reply to May 17, 2006 Office Action Page 13

by the Examiner does not make the modification obvious unless the prior art suggested the

desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84

(Fed. Cir. 1992). To establish prima facie obviousness of a claimed invention, all the claim

limitations must be suggested or taught by the prior art. In re Royka, 490 F.2d 981, 180 USPQ

580 (CCPA 1970). All words in a claim must be considered in judging the patentability of that

claim against the prior art. In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA

1970).

A showing of a suggestion, teaching, or motivation to combine the prior art references is

an "essential evidentiary component of an obviousness holding." C.R. Bard, Inc. v. M3 Sys. Inc.,

157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232(Fed. Cir. 1998). This showing must be clear and

particular, and broad conclusory statements about the teaching of multiple references, standing

alone, are not "evidence." See, In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at

1617 (Fed. Cir. 1999).

Moreover, it is well settled that the Office must provide objective evidence of the basis

used in a prior art rejection. A factual inquiry whether to modify a reference must be based on

objective evidence of record, not merely conclusory statements of the Examiner. See, In re Lee,

277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

Furthermore, during patent examination, the PTO bears the initial burden of presenting a

prima facie case of unpatentability. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444

(Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). If

Application No.: 10/722,449

Art Unit 1746

Attorney Docket No. 0465-1095P Reply to May 17, 2006 Office Action

Page 14

the PTO fails to meet this burden, then the Applicant is entitled to the patent. Only when a prima

facie case is made, the burden shifts to the applicant to come forward to rebut such a case.

Jacobson in view of Skowronski

The Office Action admits that Jacobson does not disclose that the coupling member

comprises at least one plate spring in the form of a plate so as to exert an elastic force as bent.

In an attempt to remedy this deficiency in Jacobson, the Office Action turns to

Skowronski, which discloses a door latch in which a projecting member 8 is releasably held by a

U-shaped element 6. Skowronski's U-shaped element 6 clearly is not "at least one plate spring in

the form of a plate," as claimed, because a plate is conventionally defined as a smooth, flat,

relatively thin body of substantially uniform thickness. Thus, Skowronski's U-shaped element 6

does not disclose or suggest the claimed plate spring in the form of a plate.

In fact, neither applied reference discloses a coupling member that comprises at least one

plate spring in the form of a plate so as to exert an elastic force as bent, as claimed. Thus, even if

Jacobson were modified, as suggested, the resulting modification would neither meet nor render

obvious the claimed invention.

Moreover, the Office Action fails to make out a prima facie case of either proper

motivation to make the proposed modification of Jacobson, or to indicate how one of ordinary

skill in the art would modify Jacobson to accommodate Skowronski's U-shaped door latch

element 6, for several reasons.

Attorney Docket No. 0465-1095P Application No.: 10/722,449

Reply to May 17, 2006 Office Action

Page 15

First, in order to modify Jacobson, as suggested, one would have to destroy its latch receiving member structure including its box frame 60, its cylindrical roller detent means 62, its compression springs 66, roller housings 68, shafts 64, and slots 70, and somehow replace this latch receiving member structure with Skowronski's U-shaped element 6, which would completely block projecting element 8 from contacting actuating lever 84, thereby defeating an essential function of Jacobson's latch mechanism, i.e., triggering/release of actuating switch 80, which is designed to be "in series with the main control circuit of the appliance so as to exercise master control over the control mechanism 24 and the water distribution system 35." (col. 3, lines 39-46).

Art Unit 1746

To establish a prima facie case of obviousness, the Office Action must show "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." Fine, 837 F.2d at 1074, 5 USPO2d at 1598. There is no suggestion to combine, however, if a reference teaches away from its combination with another source. See, id. at 1075, 5 USPQ2d at 1599. "A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant . . . [or] if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant." In re Gurley, 27 F.3d 551, 553, 31 USPQ2d 1130, 1131 (Fed. Cir. 1994). If when combined, the references "would produce a seemingly inoperative device," then they teach away from their combination. In re Sponnoble, 405 F.2d 578, 587, 160

Application No.: 10/722,449

Art Unit 1746

Attorney Docket No. 0465-1095P Reply to May 17, 2006 Office Action

Page 16

USPQ 237, 244 (CCPA 1969); see also, In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125,

1127 (Fed. Cir. 1984) (finding no suggestion to modify a prior art device where the modification

would render the device inoperable for its intended purpose).

Because the proposed modification of Jacobson would result in a device that would not

function for its intended purpose, one of ordinary skill in the art would be deterred from

modifying Jacobson in view of Skowronski, as suggested.

Applicant respectfully submits that the combinations of elements as set forth in independent

claim 1 and 14 are not disclosed or made obvious by the applied prior art, including Jacobson and

Skowronski.

Jacobson in view of Ito

Independent claim 1 has been amended to recite a combination of element in a dishwasher,

comprising a cabinet, a door, a locker at the door, a coupling member, and a switch that comprises a

button which is directly brought into contact with the locker when the door is closed. Similarly,

independent claim 14 has been amended to recite a combination of elements in a door lock

assembly of a dishwasher, comprising a locker at a door opening/closing a front side of a cabinet, a

coupling member, and a switch in rear of the coupling member that comprise a button which is

directly brought into contact with the locker when the door is closed. Applicant respectfully submits

that these combinations of elements are not disclosed or made obvious by the applied prior art,

including Jacobson and Ito.

Application No.: 10/722,449

Art Unit 1746

Attorney Docket No. 0465-1095P Reply to May 17, 2006 Office Action

Page 17

Jacobson fails to disclose that its switch button 82 is directly brought into contact with its

locker (plunger) when the door is closed, as recited. The Office Action merely discusses the fact

that Jacobson has a switch button 82 and clearly admits that Jacobson does not disclose the

positively recited direct contact feature of these claims.

In an attempt to remedy this deficiency, the Office Action turns to Ito.

Applicant respectfully submits that the Office Action fails to make out a prima facie case of

proper motivation to modify Jacobson in view of Ito, as suggested.

Jacobson uses an elongated plunger that moves perpendicular to the face of the door on

which it is mounted. The Jacobson plunger never directly contacts a switch-actuating button.

Instead, the Jacobson plunger contacts a leaf spring actuating lever, thereby moving the leaf spring

actuating lever to contact a switch-actuating button. Clearly, Jacobson contains absolutely no

disclosure of actuating the switch button by direct contact with the plunger.

Ito, discloses a significantly different rod locking mechanism than does Jacobson. The

differences between these two door-lock mechanisms are structural and functional and are

significant.

For example, whereas Jacobson uses a door lock plunger that is simply pushed and pulled

directly into or away from its plunger receiving structure to either lock or unlock the door, Ito uses a

door handle and claw wherein the claw pushed into its receiving structure neither locks or unlocks

the door.

Reply to May 17, 2006 Office Action

Page 18

In order to lock Ito's door, one has to rotate the rotatable door knob 30 in direction B, as

shown in Fig. 3, for example. In order to unlock Ito's door, one has to rotate the rotatable door knob

30 in a reverse of direction B, as shown in Fig. 3.

Application No.: 10/722,449

Art Unit 1746

In other words, the door locking and unlocking mechanisms of Jacobson and Ito operate in

fundamentally different manners. In view of this fundamental difference, the Office Action has not

demonstrated why one of ordinary skill in the art would be motivated to turn to Ito to modify the

significantly different structure of Jacobson that also functions so differently.

More to the point, the Office Action fails to provide objective factual evidence that one of

ordinary skill in the art would radically redesign Jacobson's single axis type plunger with the

rotating handle and claw arrangement of Ito for any reason, let alone to achieve direct contact of

Jacobson's plunger with its on/off switch.

Additionally, whereas Jacobson has one switch 80 with actuating button 82 to turn the

dishwasher on or off, Ito has two different switches 35 and 36, one of which (35) detects that the

door is locked and another (36) that detects that the door is unlocked.

In view of this fundamental difference, the Office Action has not demonstrate why one of

ordinary skill in the art would be motivated to turn to Ito to modify Jacobson. The Office Action

also fails to provide objective factual evidence that one of ordinary skill in the art would radically

redesign Jacobson's single on/off switch with the two different open/closed switches and solenoid-

operated on/off switch arrangement of Ito for any reason, let alone to achieve direct contact of

Jacobson's plunger with its on/off switch.

Application No.: 10/722,449
Attorney Docket No. 0465-1095P
Art Unit 1746
Reply to May 17, 2006 Office Action

Page 19

The Office Action speculates that it would be obvious to modify Jacobson in view of Ito

"for the benefit of easily detecting when the door is open."

Applicant respectfully disagrees for the aforementioned reasons and because Jacobson

already has a mechanism for easily detecting when the door is open that does not require

significantly structurally reconfiguring Jacobson, and because using the Ito door open detecting

scheme would require adding detectors which would involve additional cost.

Accordingly, the Office Action fails to make out a prima facie case of obviousness of the

claimed invention.

Applicant respectfully submits that the combinations of elements as set forth in independent

claim 1 and 14 are not disclosed or made obvious by the applied prior art, including Jacobson and

Ito.

Reconsideration and withdrawal of this rejection of claims 1, 3, 14 and 16 under 35

U.S.C. §103(a) is respectfully requested.

Additional Cited References

Because the remaining references cited by the Examiner have not been utilized to reject the

claims, but have merely been cited to show the state of the art, no comment need be made with

respect thereto.

Attorney Docket No. 0465-1095P Application No.: 10/722,449

Reply to May 17, 2006 Office Action Page 20

Conclusion

Art Unit 1746

All of the stated grounds of objection and rejection have been properly traversed,

accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner

reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full

and complete response has been made to the outstanding Office Action, and as such, the present

application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite

prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration

No. 46,472, at (703) 205-8076, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies,

to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional

fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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